

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



November 3, 2003

Agenda ID #2950

TO: PARTIES OF RECORD IN APPLICATION 02-11-028

This is the draft decision of Administrative Law Judge (ALJ) Halligan. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ ANGELA K. MINKIN
Angela K. Minkin, Chief
Administrative Law Judge

ANG:tcg

Attachment

Decision **DRAFT DECISION OF ALJ HALLIGAN (Mailed 11/3/2003)****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Compliance Application
of Pacific Gas and Electric Company
Proposing Terms Under Which Noncore Gas
Consumers May Elect Core Gas Service. In
Compliance with Ordering Paragraph 3 of
Resolution G-3318.

Application 02-11-028
(Filed November 18, 2002)

O P I N I O N

This order grants the application of Pacific Gas and Electric Company (PG&E) for tariff revisions that would define the terms of a large (or “noncore”) customer’s ability to switch from noncore gas service to core gas service. In order to protect core customers, we order PG&E to establish a “cross-over” rate for noncore customers who choose core service.

I. Summary of Application and Procedural Background

PG&E filed this Application on November 18, 2002 in compliance with Resolution G-3318, adopted August 22, 2002. That resolution directed PG&E to propose terms under which noncore customers on PG&E’s system may migrate to electric core service. PG&E filed a supplement to its application on March 21, 2003, which proposes to remove a tariff requirement that noncore customers automatically transfer to core service if they do not use certain levels of gas.

PG&E’s application observes that the Commission has already addressed the issue of noncore customer migration to core service for Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E).

Because its noncore customers are currently prohibited from switching to core service under any circumstance, it seeks expedited treatment of this matter.

The Office of Ratepayer Advocates (ORA), Southern California Gas Company (SoCalGas), and The Utility Reform Network (TURN) protested PG&E's application in part.

The Commission held a prehearing conference in this proceeding. The parties filed opening briefs on May 16, 2003 and reply briefs on June 6, 2003.

II. PG&E's Proposed Procedures for Noncore Customer Migration to Core Service

PG&E's instant application specifies the terms under which noncore customers may opt for core service. Until 2001, PG&E's tariffs provided this option to noncore customers, but the Commission suspended the option during California's energy crisis. At the time, high spot prices in gas markets motivated many noncore customers to migrate to core service to take advantage of lower-priced service PG&E could provide to the core under its long-term gas contracts. The result was to increase the cost of gas service to core customers who had assumed liability for long-term contracts. PG&E's application would reinstate this option with certain protections for core customers.

PG&E's application would permit certain noncore customers to migrate to core service at will as long as they sign a five-year contract for core service. The proposal would prohibit electric generation, cogeneration, and refinery and enhanced oil recovery customers with historical or potential annual usage that exceeds 250,000 therms from electric core service. Electric generators with capacity of 500 kilowatts or greater would not have an option to be core customers. PG&E explains that its proposal will protect current core customers

from adverse effects that may result when noncore customers migrate to core service.

PG&E also proposes to eliminate an existing tariff provision that requires noncore customers to move to core service in the event they do not use at least 20,800 therms of gas during at least one month out of 12. PG&E asserts the provision is unpopular with customers. Moreover, PG&E is concerned that some customers could use this provision to switch to core service and avoid the five-year commitment that would be required under the new rules. PG&E maintains the proposed tariff change would promote more consistent treatment of all noncore customers.

III. Discussion

PG&E's proposal to reinstate the option for noncore customers to migrate to core service is generally consistent with existing policy, adopted in D.02-08-065 for SoCalGas and SDG&E. By requiring noncore customers to make a five-year service commitment, PG&E's proposal provides core customers significant protections from increased costs that might occur if noncore customers could opt in and out of core service to take advantage of short-term changes in gas market prices. We address below two issues raised by TURN, ORA, and SoCalGas.

Cross-over Rates. TURN and ORA generally support PG&E's application. However, they both argue PG&E's proposal could expose PG&E's core customers to higher gas costs when noncore customers shift from noncore to core service. Specifically, TURN and ORA propose that noncore customers switching to core service pay a "cross-over" rate that would make other core customers indifferent to the switch from the standpoint of cost. SoCalGas joined ORA and TURN on this matter in its brief.

PG&E responds to the proposal for a cross-over rate by explaining that the potential harm to core customers is limited because gas prices have stabilized, and the option to switch to core service is available to only one quarter of noncore load. It also believes the five-year commitment assures that customers seeking only short-term price savings will not take advantage of the option to switch. PG&E states it does not anticipate any gas price spikes in the future. PG&E argues against the cross-over rate hoping to keep its bills simple.

We agree with PG&E that the five-year commitment and the prohibition that the largest gas customers may not migrate to core service will provide substantial protections to core customers against assuming unfair liabilities for noncore customers. However, we do not accept PG&E's assertion that gas prices are not likely to increase in upcoming years. Gas prices are very seasonal in nature and can be very volatile. As the percentage of generation fueled by natural gas increases, gas prices can be expected to become increasingly volatile as well. As recently as October 14, 2003, PG&E reported that it expected gas prices to spike this winter as a result of supply shortages. Its spokesman also stated he expects continued high prices for "several years." (See "Natural gas bills to soar this winter, PG&E says," San Francisco Chronicle, Section A, Page 1, October 14, 2003). This forecast may motivate noncore customers to migrate to less expensive core service. Absent rate protections for the core, core rates could increase as a result.

We adopt PG&E's proposed tariff changes with the cross-over rate, consistent with the method we adopted for SoCalGas and SDG&E. Accordingly, PG&E's tariffs shall provide that the cross-over rate is the higher of a) the posted monthly core procurement rate, including intrastate backbone transportation costs or b) PG&E's Core Procurement Incentive Mechanism monthly benchmark

for California border purchases plus the per unit cost of intrastate backbone costs included in the posted monthly procurement rate. The tariff shall provide that this rate will be in effect for one year after the date the customer switched to core service.

Five-Year Commitment. ORA argues that PG&E's proposal to permit noncore customers to migrate back and forth between core and noncore service with a five-year commitment may create liabilities for core customers. It observes that PG&E will have to invest in infrastructure to serve noncore customers that, under PG&E's proposal, they may later abandon without penalty. Accordingly, ORA recommends that PG&E's tariffs require noncore customers to remain core customers permanently if they are permitted to migrate to core service.

PG&E responds that a permanent ban is too restrictive and that a five-year service commitment still provides PG&E with some planning assurance. We agree with PG&E that a permanent ban is not required for planning purposes.

IV. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Section 311(g)(1) of the Public Utilities Code and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____.

V. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Julie M. Halligan is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. PG&E's proposed tariffs regarding the terms under which noncore customers may subscribe to core services do not adequately protect core customers from additional cost liabilities.
2. A cross-over rate would protect PG&E's customers from unreasonable cost liabilities that might occur if noncore customers migrate to core service.
3. Requiring noncore customers who migrate to core service to commit to core service permanently is not necessary to assure reasonable protections to core customers.

Conclusions of Law

1. PG&E should modify its tariffs consistent with its application, with the exception that they should include the imposition of a "cross-over" rate that would apply to noncore customers in the first year of their subscription to core service as set forth in this order.
2. The tariffs PG&E proposes in this application are otherwise reasonable and consistent with Commission policy adopted for SoCalGas and SDG&E.

O R D E R**IT IS ORDERED** that:

1. The application of Pacific Gas and Electric Company (PG&E) is granted to the extent set forth herein.
2. Within 10 days of the effective date of this decision, PG&E shall file tariffs that define the terms under which noncore gas customers may subscribe to core service consistent with those filed in this application except that they shall be modified to include a cross-over rate that is the higher of a) the posted monthly core procurement rate, including intrastate backbone transportation costs or

b) PG&E's Core Procurement Incentive Mechanism monthly benchmark for California border purchases plus the per unit cost of intrastate backbone costs included in the posted monthly procurement rate. The tariff shall provide that

this rate will be in effect for one year after the date the customer switched to core service.

3. Application 02-11-028 is closed.

This order is effective today.

Dated _____, at San Francisco, California.